



**Asheboro Planning Board
Asheboro City Hall (146 N. Church Street)
Monday, February 1, 2021
7:00 PM**

AGENDA

- I. Call to Order
- II. Approval of Minutes from January 4, 2021
- III. Review of Cases from December, 2020 and January, 2021
- IV. Election of Board Officers and Secretary
- V. RZ-21-01: Text amendments to the zoning ordinance concerning allowable encroachments into the public right-of-way
- VI. Items not on the agenda
- VII. Adjournment

MEETING OF THE ASHEBORO PLANNING BOARD
CITY COUNCIL CHAMBERS, 146 N. CHURCH ST.
MONDAY, JANUARY 4, 2020
7:00 p.m.

This being the time and place for the regular meeting of the Asheboro Planning Board, a meeting was held with the following officials and members present:

Van Rich) - Chair

Harold Anderson)

Ritchie Buffkin)

David Henderson) - Members Present

Thomas Rush)

Pamela Vuncannon) – Members Present via Conference Call

Michael O’Kelley) – Members Absent

Brad Morton, Planner/Deputy City Clerk

Trevor Nuttall, Community Development Division Director

Jeff Sugg, City Attorney

CALL TO ORDER

Mr. Rich called the Asheboro Planning Board to order.

APPROVAL OF MINUTES FROM DECEMBER 7, 2020

Mr. Rich inquired if there were any corrections or additions to the minutes presented. Hearing no corrections or additions, the minutes were approved as presented.

REVIEW OF CASES

Mr. Nuttall stated that in his absence of the December regular meetings, he would like to defer the review of cases to the February regular meeting. The review of cases was then deferred to the February regular meeting.

DISCUSSION OF PENDING STUDY EXAMINING PUBLIC RIGHT-OF-WAY NEEDS ON SUNSET AVENUE FROM DAVIS STREET TO CHURCH STREET

Mr. Nuttall gave a visual presentation of the above referenced agenda item. He gave a brief background of the following:

- Requests over the years from property owners about building additions that may encroach into the public right-of-way (ROW) along Sunset Avenue.
- Zoning ordinance generally does not permit structures in public ROWs.
- The city code authorizes limited encroachments.
- NCGS provides stipulations on the city’s granting of easements within public ROWs.

He showed aerial images of Sunset Avenue, noting the changes in ROW widths from Fayetteville Street to Davis Street. He also showed an image from Davis Street to Church Street and noted significant changes in ROW widths. He showed photos of the area in questions. He gave a list of the zoning ordinance requirements as well as the city code requirements as follows:

- Zoning ordinance establishes setbacks of structures from property lines and right-of-ways.
- Prohibitions are within the zoning ordinance that pertain to specific types of encroachments within public ROWs.
 - Includes canopies, marquees, awnings, most signs
- However, the city code permits limited encroachments adjacent to the street, specifically over sidewalks where certain conditions are met.
 - Standards include requirements related to distance from curb, overhead clearance, and the use of noncombustible materials.
- State law provides that in instances where the city wishes to grant an easement to allow use within a public right-of-way, such grant must be treated as a sale of property. Permitted encroachments do not require an easement nor property sale.

He listed the recent requests that have been made to the city including:

- 2nd story balcony additions
- Canopies
- Awnings
- Signs
- Improvements related to outside dining
- All requests have required consideration of public right-of-way, type of proposed encroachment, zoning/city code review, and evaluation of state law.

He then stated the City's current status:

- City staff have received a proposal that would add a canopy and raised outdoor dining area in the block between Davis Street and Church Street.
- Zoning ordinance amendment(s) and closure of public right-of-way by City Council necessary for project to move forward.
- City Manager has directed an evaluation of right-of-way needs for this block of Sunset Avenue. Surveying is pending.
- Anticipate reporting back to Planning Board following completion of study

He then asked the Board if they had any questions on this item.

Mr. Henderson asked if there were other cities that have gone through this process that we could look to for guidance on this request, to which Mr. Nuttall stated he wasn't sure of any that had gone through this process however we could look into this question. Mr. Buffkin stated that he would like to see a more uniform look to downtown and we should put regulations regarding design in this study, to which Mr. Nuttall stated that there are current design standards in place that regulate building materials. Mr. Nuttall stated that staff can research if modified design standards may be warranted as a part of the study. Mr. Henderson stated that some objectives need to be set regarding the sidewalks and also mentioned the possibility of establishing different zones which would dictate the intensity of regulations on projections into the right of way. Mr. Sugg noted that there may be a need to reserve utility or other easements for improvements which are located in the public right of way if any area were considered for closure. Mr. Nuttall also mentioned that the study area on Sunset Avenue between Davis Street and Church Street is city maintained. There were no other questions or comments by the board.

No action was requested of the Board, and none was taken.

ITEMS NOT ON THE AGENDA

Mr. Nuttall stated that elections of officers will take place at the February regular meeting. He stated that Mr. Van Rich was scheduled to reappointment at the next regular City Council meeting for another 5 year term. He thanked Mr. Rich for his willingness to serve another term.

ADJOURNMENT

With no further business to come before the board, Mr. Rich adjourned the meeting.

Bradley Morton, Planning Board Secretary

Van Rich, Planning Board Chair



RZ-CUP-21-01: Text amendments to the Zoning Ordinance related to encroachments within public right-of-ways

Staff Report

Rezoning Staff Report

RZ Case # RZ-21-01

Date 2/1/2021 PB

General Information

Applicant City of Asheboro

Address 146 North Church Street

City Asheboro NC 27203

Phone 336-626-1201

Location N/A

Requested Action Text amendments to the zoning ordinance related to encroachments in the the public right-of-way

Existing Zone N/A

Existing Land Use N/A

Size N/A

Pin # N/A

Applicant's Reasons as stated on application

See attached statement.

Surrounding Land Use

North N/A

East N/A

South N/A

West N/A

Zoning History

Legal Description

As of 1-22-2021, sections of the Asheboro Zoning Ordinance that may be amended regarding encroachments into public right-of-ways include Article 200A (Center City Planning Area). A more final legal description will be available prior to Council review and as needed for public advertisement.

Analysis

1. The Asheboro Zoning Ordinance generally prohibits encroachments into public right-of-ways, which are outside of a public street that is maintained by either the City of Asheboro or North Carolina Department of Transportation. Such encroachments may include features such as canopies, awnings, signs, or improvements related to outdoor dining.
2. There has been an increase in the number of requests for encroachments described in (1) above, particularly in the central business district that makes up the historic core and coincides with part of the Center City Planning Area, where the setbacks of existing structures tend to be minimal, or in some cases are directly along the public right-of-way line. The proposed text amendments are focused on the Center City Planning Area.
3. The Asheboro City Code includes provisions for encroachments into public right-of-ways, with review to ensure such encroachments do not create safety problems or prevent free passage across them.
4. The City only has jurisdiction over city-maintained public right-of-ways. The North Carolina Department of Transportation reviews encroachment requests within public right-of-ways of state-maintained roads. State law, for example, allows encroachments into the public right-of-way in cases such as sidewalk dining (which may include structures regulated by the Zoning Ordinance). This is subject to an agreement between the local government and NCDOT (Session Law 2013-266).
5. The intent of the amendments is to ensure that the zoning ordinance isn't in conflict with the provisions of the city code, or allowances by state law. However, the other provisions related to design standards, provisions related to area, height, and placement, and other general requirements are not affected by this proposal.

Rezoning Staff Report

RZ Case # RZ-21-01

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Consistency with the 2020 LDP Growth Strategy designations

In reviewing this request, careful consideration is given to each Goal and Policy as outlined in the Land Development Plan. Some Goals and Policies will either support or will not support the request, while others will be neutral or will not apply. Only those Goals and Policies that support or do not support the request will be shown.

Proposed Land Use Map Designation Not applicable
Small Area Plan Not applicable
Growth Strategy Map Designation Not applicable

LDP Goals/Policies Which Support Request

2.1.1 The Zoning Ordinance will periodically be reviewed to ensure that the specific regulations for each Zoning District are aligned with the desired character and focus of each district.

3.2.1 The City will amend Zoning requirements (i.e. setback regulations, permitted building materials, orientation of streetscapes, parking areas, pedestrian access, etc.) to ensure that new development is compatible with, and enhances, the architectural design of surrounding land uses.

Checklist Item 10: Text amendment is consistent with Land Category Descriptions. *Staff Note:* Actual checklist item refers to rezoning request consistency with Land Category Descriptions, but as articulated in final analysis on p. 3, the text amendment also complies with this item.

Rezoning Staff Report

RZ Case # RZ-21-01

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LDP Goals/Policies Which Do Not Support Request

Staff's Final Analysis Concerning Consistency with Adopted Comprehensive Plans, Reasonableness and Public Interest

The proposed text amendments are intended to allow encroachments into the public right-of-ways under certain circumstances to enhance the unique experience and design of the Asheboro City Center area, but must be done prudently.

The current proposal is intended to ensure that all other requirements of the zoning ordinance and other regulatory provisions addressing appearance, safety, and public accessibility are strictly maintained but allows accommodation of appropriately designed spaces in the public realm. The proposal also clarifies, and as necessary, removes language that is currently in conflict with the Asheboro City Code, and allows for the appropriate review process to occur if encroachments are proposed in state-maintained right-of-ways.

Recognition that buildings in the Center City were developed with limited space separating them from the street acknowledges both unique design challenges not usually faced outside this area and opportunities to prudently respond to changing conditions and encourage features that enliven the City Center's streetscape, which the Land Development Plan envisions as a "unique and vibrant atmosphere setting the City Center apart from other districts."

At this time City staff is proposing a draft for Planning Board's to allow time for the Board and the public's consideration and comment and will be presenting a more finalized draft during the regular February meeting.

Recommendation

In light of the above analysis, staff's recommendation is to continue the request until the March 1, 2021 Planning Board meeting.

RZ-21-01: Text amendments to the zoning ordinance concerning allowable encroachments into the public right-of-way (Article 200A, Center City Planning Area)

Tier 1

(4) Development Standards for Buildings

The following sections identify standards that shall apply to development within the Central Business Planning Area in addition to all other applicable standards contained in this Ordinance. In general, infill uses shall be compatible with the established architectural character of the area by using complementary building style, form, size, color, materials, and detailing. New construction should reinforce existing building and design patterns.

(a) Building Materials:

(i) Permitted Materials: Buildings shall be clad in one or more of the following: brick, brick veneer, ornamental split-faced concrete block or similar ornamental concrete masonry unit (CMU), stucco (synthetic or natural), stone or simulated stone/marble. Vinyl and/or aluminum may be used to clad soffits, trim, or windows. Aggregate stone panels may be used provided it does not cover more than 30 percent of any wall area.

(ii) Prohibited Materials: Materials specifically disallowed as primary siding materials include, but are not limited to: vinyl and aluminum siding, unfinished wood, concrete block (except split-faced block). In addition, materials prohibited in Sections 316A, 317A and 318A of this Ordinance are prohibited.

(b) Colors: No high intensity colors metallic colors, or fluorescent colors shall be allowed on any building or architectural element. Exception: The use of such colors shall be permitted on business identification signs.

(c) Existing Street Fronting Facades:

(i) For existing buildings, no openings on any portion of a wall oriented toward a public street shall be covered or blocked with any material so as to render the opening functionally obsolete (unable to be utilized for entry into the building) or inhibit transparency.

(ii) Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any building wall oriented toward a public street. Such devices may be installed on the interior of the building.

(iii) A zoning compliance permit shall be obtained prior to painting, staining, or covering any street front facade. Any street front facade of masonry buildings that has historically been left in a natural, uncovered state shall not be painted, stained or otherwise covered; this prohibition shall apply only to the masonry portion of the building and not to any non-masonry building trim or accents. This subsection shall not apply to single-or two family dwellings. (Amended 2-4-2016)

(iv) Notwithstanding Sections 304.4 and 505 of the Asheboro Zoning Ordinance, objects and structures over sidewalks otherwise permitted by Chapter 99 of the Code of Asheboro shall be allowed to encroach into city-maintained public right-of-ways and, with state approval, state-maintained public right-of-ways, provided:

(aa) any sidewalk within the public right-of-way is not rendered non-compliant with Americans with Disabilities Act standards by such object or structure; and

(bb) the object or structure does not prevent the city and any other entitled entity from maintaining public infrastructure within the public right-of-way; and

(cc) the object or structure is in strict compliance with Chapter 99 of the Code of Asheboro and all other provisions of the city Zoning Ordinance.

RZ-21-01: Text amendments to the zoning ordinance concerning allowable encroachments into the public right-of-way (Article 200A, Center City Planning Area)

Tier 2

(4) Development Standards for Buildings

The following sections identify standards that shall apply to development within the Central Fringe Planning Area in addition to all other applicable standards contained in this Ordinance. In general, infill uses shall be compatible with the established architectural character of the area by using complementary building style, form, size, color, materials, and detailing. New construction should reinforce existing building and design patterns.

(a) Building Materials:

(i) Permitted Materials: Buildings shall be clad in one or more of the following: brick, brick veneer, ornamental split-faced concrete block or similar ornamental concrete masonry unit (CMU), stucco (synthetic or natural), stone or simulated stone/marble. Vinyl and/or aluminum may be used to clad soffits, trim, or windows. Aggregate stone panels may be used provided it does not cover more than 30 percent of any wall area.

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(ii) Security bars, panels, curtains, and like devices, whether retractable or permanent, shall not be constructed or used on the exterior portion of any building wall oriented toward a public street. Such devices may be installed on the interior of the building.

(iv) Notwithstanding Sections 304.4 and 505 of the Asheboro Zoning Ordinance, objects and structures over sidewalks otherwise permitted by Chapter 99 of the Code of Asheboro shall be allowed to encroach into city-maintained public right-of-ways and, with state approval, state-maintained public right-of-ways, provided:

(aa) any sidewalk within the public right-of-way is not rendered non-compliant with Americans with Disabilities Act standards by such object or structure; and

(bb) the object or structure does not prevent the city and any other entitled entity from maintaining public infrastructure within the public right-of-way; and

(cc) the object or structure is in strict compliance with Chapter 99 of the Code of Asheboro and all other provisions of the city Zoning Ordinance.



Application for Zoning Ordinance/Map Amendment

APPLICATION FEE

A \$200 filing fee is required for any amendment.

APPLICATION INSTRUCTIONS

The rezoning process can be complex. It is highly recommended that the applicant speak with Planning and Zoning Department staff prior to submitting the application and paying the filing fee. Contact staff at (336) 626-1201 ext. 225 to ensure application requirements are satisfied.

REQUIRED APPLICATION CONTENTS

- 1) A dimensional map, at a scale of not more than 200 feet to the inch, showing the land that would be covered by the proposed amendment, if the amendment would require a change in the zoning atlas.
- 2) A legal description/deed reference of such land.

It is recommended that the applicant mail letters to the adjoining property owners a minimum of 10 days prior to the scheduled Planning Board meeting. A template showing the required information contained in the letters is on Page 4 of this application. Please verify location and meeting times with staff prior to mailing.

One copy is to be filed with the city manager and one copy filed with the Zoning Administrator by 5:00 pm on the day which is at least 55 days prior to the City Council meeting at which the request will be considered. At no time shall the city council hear more than five (5) cases per month. If five applications have been received prior to the cut-off date, the request will be heard the following month.

MEETING INFORMATION* Dates are subject to final Planning Board/Council approval in December, 2019.

<i>Application Deadline</i>	<i>Planning Board Meeting</i>	<i>City Council Meeting</i>
December 11, 2020	Monday, January 4, 2021	Thursday, February 4, 2021
January 8, 2021	Monday, February 1, 2021	Thursday, March 4, 2021
February 12, 2021	Monday, March 1, 2021	Thursday, April 8, 2021
March 12, 2021	Monday, April 5, 2021	Thursday, May 6, 2021
April 16, 2021	Monday, May 3, 2021	Thursday, June 10, 2021
May 21, 2021	Monday, June 7, 2021	Thursday, July 15, 2021
June 11, 2021	Monday, July 12, 2021	Thursday, August 5, 2021
July 23, 2021	Monday, August 2, 2021	Thursday, September 16, 2021
August 13, 2021	Monday, September 13, 2021	Thursday, October 7, 2021
September 10, 2021	Monday, October 4, 2021	Thursday, November 4, 2021
October 15, 2021	Monday, November 1, 2021	Thursday, December 9, 2021
*Confirm application deadline with staff	Monday, December 6, 2021	*January, 2022: Confirm meeting date with staff

***January, 2022 Council meeting dates are not set by Council until December, 2021.**

Application for Zoning Ordinance/Map Amendment

APPLICANT INFORMATION

Applicant: City of Asheboro

Applicant's Phone #: 336-626-1201

Applicant's Address: 146 North Church Street; Asheboro, NC 27203

Applicant Email Address; jevans@ci.asheboro.nc.us and others

PROPERTY INFORMATION FOR MAP AMENDMENTS Text amendment, so not applicable.

Property Owner's Name _____

Location of Property _____

Property Size (ac. or s.f.) _____

Randolph County Property Identification Number (PIN#) _____

Current Zoning District _____

Requested Zoning District _____

Date Property Title Acquired _____

Deed Book _____ Page _____

Subdivision _____ Section _____ Lot # _____

Plat Book _____ Page _____

ORDINANCE AMENDMENT INFORMATION

Section 1011.2 of the Asheboro Zoning Ordinance requires the applicant to answer the following questions. The application may not be accepted unless all questions are completed.

1. Are there alleged errors in this Ordinance that would be corrected by the proposed amendment? If so, give a detailed explanation of such error and detailed reasons how the proposed amendment will correct the errors.

There are no specific errors in the Zoning Ordinance that are being addressed. However, the text amendments are proposed to create consistency between the zoning ordinance and Asheboro City Code when it comes to allowable encroachments in the public right-of-way. The Asheboro zoning ordinance provisions that relate to this issue include Section 319A (Obstructions Prohibited in the Right-of-Way) and the Center City Planning Area (Article 200A) provisions. Additional provisions may be reviewed and proposed for amendment once this review process begins, however these are the two sections identified as of 1-7-2021.

2. What are the changed or changing conditions, if any, in the jurisdiction of the City of Asheboro generally, which would make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare?

The City of Asheboro has seen an increasing number of requests in the Center City area that may encroach into the public right-of-way such as ~~canopies, awnings, signs, and improvements related to outdoor dining.~~ canopies, awnings, signs, and improvements related to outdoor dining. JLE

3. In what manner will the proposed amendment carry out the intent of the Land Development Plan?

The Description of the "City Activity Center" which coincides with the Center City Planning Area includes "spaces will serve to create a unique and vibrant atmosphere setting the City Center apart from other districts." Many of the features being requested as described by Response (2) help create the atmosphere envisioned by the LDP.

4. Are there any other circumstances, factors, or reasons that the applicant offers in support of the proposed amendment?

The Zoning Ordinance needs to be consistent with the Asheboro Code of Ordinances (City Code) in order to help facilitate the intent of the Land Development described in the application, which will be further described in the City's staff report.

APPLICATION SIGNATURES

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proving the need for the proposed amendment rests with the applicant. The applicant for rezoning to any district other than a conditional use district shall be prohibited from offering any testimony or evidence concerning the specific manner in which he or she intends to use or develop the property.

Applicant Signature

John L. Evans

Owner Signature (if different than Applicant)
N/A

Printed Name of Authorized Signatory (if different from Applicant)

Owner Address
146 N. Church Street

Asheboro, NC 27203

Position/Relationship of Authorized Signatory to Applicant
City of Asheboro Assistant Community Development Director

Telephone Number
336-626-1201

Printed Name of Authorized Signatory (if different from Owner)

Position/Relationship of Authorized Signatory to Owner

STAFF USE

Received by: JLE Date: Filed 1-7-2021 Case Number: RZ-21-01